

September 10, 2004

Filed Electronically via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte, CC Docket No. 99-273, Provision of Directory Listing Information Under the Telecommunications Act of 1934, as Amended

Dear Ms. Dortch:

This notice is being filed pursuant to Section 1.1206(b)(2) of the Commission's rules. On Thursday, September 9, 2004, the undersigned, Counsel to LSSi Corp. ("LSSi") communicated via telephone with Rodney McDonald of the Competition Policy Division of the Wireline Competition Bureau. During our conversation, Mr. McDonald referenced an ex parte communication submitted on behalf of LSSi in the above-referenced proceeding on May 9, 2003, and asked whether there have been any more recent developments at the state level, such as the adoption of laws or regulations addressing consumer privacy concerns related to telemarketing.

The most notable development at the state level over the past year and a half has been the widespread adoption of state do-not-call laws which are, for the most part, harmonized with the recent federal legislation and the implementing rules of this Commission and the Federal Trade Commission. In the course of our research, we found a detailed matrix of state do-not-call laws, updated as of June of 2004, at <http://www.gryphonnetworks.com/regulatory/stateMatrix.asp>. Gryphon Networks reports that 44 states (all except Delaware, Iowa, Ohio, Rhode Island, South Carolina and Washington) have do-not-call laws already in effect.

Although we have not been able to find a similarly comprehensive matrix of laws and regulations governing the use of nonpublished and nonlisted subscriber data, we have updated the list previously submitted to include links (where available) and have located regulations in two additional states (Alaska and Washington), highlighted on the attached listing.

It should be noted that the attached list only includes those statutes, rules and orders that we had previously identified in the May, 2003 ex parte letter, plus those from the two additional states mentioned above, which were identified via a generic (Google) search of publicly accessible web sites. Although we have not undertaken to research, on an individual basis, the legislative or regulatory databases, or the applicable carrier tariffs in the other states, we are reasonably confident that similar privacy protections exist in many, if not most, of the other jurisdictions.

LSSi's internal policies and procedures, as well as its agreements with its customers, ensure that subscriber privacy is protected. Here is a summary of the measures currently in effect.

Gray Cary Ware & Freidenrich LLP

Ms. Marlene H. Dortch
September 10, 2004
Page Two

1. LSSi does not receive the telephone number of nonpublished listings from its data suppliers. Data received by LSSi either shows only the NPA-NXX with the last 4 digits blanked or a phone number in the form NPA-NXX-0000.
2. LSSi may or may not receive the address of nonpublished listing. The practice varies by supplier.
3. LSSi may or may not receive a locality designation for non published listings. If no locality designation is supplied, LSSi assigns a default locality (e.g., Bethesda, MD) based on the listing's NPA NXX.
4. LSSi receives the name and telephone number of nonlisted entries, but may or may not receive the address. Again, this varies by supplier.
5. LSSi provides operators with the name, address, locality and "NP" indicator for nonpublished listings. The operator may use the address for verification purposes only.
6. LSSi suppresses the address information on nonpublished listings in its electronic access system, and only displays the name, locality and "NP" indicator.
7. On aged data that may be accessed via the Internet, both nonpublished and nonlisted entries are suppressed.
8. All of LSSi's customer contracts require the customer to comply with all applicable laws and regulations.

Please refer any questions regarding this matter to the undersigned.

Sincerely,

/s/
Larry A. Blosser
lblosser@graycary.com

cc: Rodney McDonald

Updated listing of State Statutes and Regulations protecting nonpublished listing information:

Alaska: Provision and Use of Subscriber Data: 3 AAC 53.650

[http://www.legis.state.ak.us/cgi-bin/folioisa.dll/aac/query=\[jump!3A!273+aac+53!2E650!27\]/doc/{@8047}/hits_only?](http://www.legis.state.ak.us/cgi-bin/folioisa.dll/aac/query=[jump!3A!273+aac+53!2E650!27]/doc/{@8047}/hits_only?)

California: Consumer information subject to privacy protection: Cal. Pub. Util. Code §2891.

<http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=76258929035+1+0+0&WALSaction=retrieve>

California PUC Decision R-95-04-043 (October 5, 2000) at 10.

http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/2751.htm

Colorado: Protection of nonpublished listings: 4 Colo. Code Regs. § 723-2-12.3.1 and 4 Colo. Code Regs. § 723-2-12.1.1. Prohibition on use of information for marketing purposes: 4 Colo. Code Regs. § 723-2-27.8.1. <http://www.dora.state.co.us/puc/rules/723-2.pdf>

Connecticut: Protection of nonpublished listings. Conn. Gen. Stat. § 16-247s;

<http://www.cga.state.ct.us/2001/pub/Chap283.htm#sec16-247s.htm>

“No sales solicitation calls” listings: Conn. Gen. Stat. §§ 42-288a (e)(1), (e)(2) and (b).

<http://www.cga.state.ct.us/2003/pub/Chap743m.htm#Sec42-288a.htm>

Illinois: Protection of nonpublished listings. Ill. Admin. Code tit. 83 § 735.180 (a)(1), (h):

<http://www.legis.state.il.us/commission/jcar/admincode/083/083007350001800R.html>

Maryland: Protection of nonpublished listings: Md. Reg. Code. tit. 20 § 45.04.11(H):

<http://www.dsd.state.md.us/comar/20/20.45.04.11.htm>

Nebraska: Consumer information subject to privacy protection: Tit. 291 Neb. Adm. Code Ch. 5 § 002.18B: http://www.sos.state.ne.us/local/regsearch/Rules/Public_Service_Commission/Title-291/Chapter-5.pdf

New York: Protection of nonpublished listings: N.Y. Pub. Serv. Law § 602.8(a)(1); Consumer information subject to privacy protection by carriers and non-carriers: Cases 94-C-0095 et al., Local Competition Proceeding, Order Regarding Directory Database Issues at 17-18 (“NY DA Order”) (issued July 22, 1998);

[http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/BB88DA774404A00485256DF100756D44/\\$File/doc4530.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/BB88DA774404A00485256DF100756D44/$File/doc4530.pdf?OpenElement)

Cases 94-C-0095 et al., Order Resolving Petitions for Rehearing and Clarification of July 22, 1998 Order Regarding Directory Database Issues and Directing the Refiling of Tariffs (“NY DA Order II”)(issued January 7, 1999)

[http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/643F3151439B40D685256DF100756DB0/\\$File/doc5256.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/ArticlesByCategory/643F3151439B40D685256DF100756DB0/$File/doc5256.pdf?OpenElement)

Statement of Policy on Privacy in Telecommunications, Case 90-C-0075 (March 22, 1991) (not available on web); New York State Public Service Commission, Modification and Clarification of Policy on Privacy in Telecommunications, Case 90-C-0075 (September 20, 1991) at 3-4 (not available on web).

Ohio: Protection of nonpublished listings: Ohio Admin. Code § 4901:1-5-10(B) and Ohio Admin. Code § 4901:1-5-11. Sections may be found via:

<http://onlinedocs.andersonpublishing.com/oh/lpExt.dll?f=templates&fn=main-h.htm&cp=OAC>

Pennsylvania: Protection of nonpublished listings: 35 Pa. Stat. Ann. § 7019(b) (not available online); Order, Pennsylvania Public Utility Commission v. Citizens Telecommunications Company of New York, Inc. d/b/a Citizens Communications Services Company, Docket No. R-00994971 (February 11, 2000) (not available online).

Texas: Protection of nonpublished listings: Tex. Util. Code Ann. §§ 26.128(e)(1) <http://www.puc.state.tx.us/rules/subrules/telecom/26.128/26.128.pdf> and 26.272(e)(1)(D)(iv). <http://www.puc.state.tx.us/rules/subrules/telecom/26.272/26.272.pdf>.

Vermont: Consumer information subject to privacy protection: Vt. Public Service Board, Final Order in Docket 5903: <http://www.state.vt.us/psb/document/5903finalOrder.PDF> (entered 7/2/99) (pp. 80, 88).

Washington: Protection of subscriber list information: Washington Administrative Code § 480-120-218. <http://www.leg.wa.gov/WAC/index.cfm?section=480-120-218&fuseaction=section>